REMARKS/ARGUMENTS

Allowable Subject Matter

Applicant appreciatively acknowledges the Examiner's statement that claim 53 is drawn to patentable subject matter and would be allowable if rewritten in independent form. However, for the reasons set forth below, Applicant submits that claim 53 is allowable as is, because it depends from a patentable base claim.

ARGUMENTS

Rejection under 35 U.S.C. § 102(b)

The Examiner rejects claims 41-43, 46-48, 51, and 52 of this application as being anticipated by U.S. Patent 5,218,486 to Wilkinson ("Wilkinson").

Claim 41 recites:

A method of providing an improved audio reproduction derived from an analog recording, the method comprising:

digitizing a wideband playback signal from an analog recording containing wow/flutter;

deriving, without use of a prescribed tone or time-code previously applied and intended to be indicative of timing, a reference signal from within the digitized wideband playback signal, the reference signal being an extraneous artifact within the recording;

generating a modulated carrier by at least one of stabilizing, idealizing, and demodulating the reference signal;

deducing deviations between the modulated carrier and a high-precision clock signal or sampling rate

adjusting timing and pitch in the digitized wideband playback signal in response to the deduced deviations, wherein such adjusting comprises establishing a change in

a period of the reference signal, then conforming the timing and pitch of the digitized wideband playback signal to the modulated carrier

thereby producing a wideband playback signal substantially corrected for distortion corresponding to said wow/flutter. [**Emphasis** added]

The Examiner states that Wilkinson, at col. 3, lines 35-48 disclose "**deriving, without use of a prescribed tone or time-code previously applied and intended to be indicative of timing, a reference signal from within the digitized wideband playback signal, the reference signal being an extraneous artifact within the recording.**" This is incorrect. The cited section of Wilkinson states, in pertinent part:

> …"a single stable reference oscillator is provided and arranged for connection with to the tape recorder such that on record a control reference tone is connected to at least one tape recorder input... on playback the recorded signals to be corrected, together with the recorded reference tone, are connected to the signal correction system." Wilkinson at col. 3, lines 36-44.

The Wilkinson reference goes on to disclose that:

> "The reference signal may be provided as a reference embedded in each input channel of a multi-channel recorder or as a reference in a dedicated reference channel." Wilkinson at col. 3, lines 45-48.

Accordingly, Wilkinson discloses the opposite of the above-recited limitation of claim 41. That is, the "reference tone" of Wilkinson is "**a prescribed tone previously applied and intended to be indicative of timing**" and is not an "**extraneous artifact within the recording**." Indeed, even the first two sentences in the Abstract of Wilkinson disclose that a **prescribed tone** is **previously applied** in order for the system to remove drift, wow, and flutter on playback:

> "An arrangement to remove drift and wow and flutter in a tape recording comprising **recording a control signal tone** derived from a reference clock (159) in a dedicated control channel or embedded in a signal channel. The **control signal on playback (151) is compared to the reference signal** in an up/down counter (172) and the difference is used to correct the speed of the tape drive." [**Emphasis** added]

Consequently, Wilkinson not only fails to anticipate claim 41, but it teaches away from it. Accordingly, Applicant submits that claim 41 is both novel and non-obvious in view of the prior art relied on by the Examiner.

Claims 42, 43, 46, 47, and 48 depend from claim 41 and, accordingly, are not anticipated or made obvious by Wilkinson. Therefore, these claims are patentable as well.

Claim 51 recites:

> An electronically readable storage medium, other than a transitory signal, containing data representing digital audio information which has been **generated by the method of claim 41**. [**Emphasis** added]

Given that the Examiner has failed to show that claim 41 is not patentable, claim 51, which incorporates by reference the limitations of claim 41, is also patentable.

Claims 52 and 53 depend from claim 51, which as explained above, is patentable. Accordingly, claims 52 and 53 are also patentable.

References Cited by Examiner

The Examiner also cites the following references as being pertinent to the disclosure.

U.S. Patent 4,353,089 to Winslow et al ("Winslow")
U.S. Patent 4,535,368 to Schwartz et al ("Schwartz")
U.S. Patent 5,189,578 to Mori et al ("Mori")
U.S. Patent 6,603,820 to De Mey et al ("De Mey")

In previous Office Action responses, Applicant has distinguished the subject matter of the present application from the disclosures of Winslow, Schwartz, and De Mey. The Mori reference relates to a "DISK SYSTEM WITH SUB-ACTUATORS FOR FINE HEAD DISPLACEMENT" and, absent any reasoning from the Examiner as to why the Mori reference is pertinent to the present subject matter, Applicant submits that the Mori reference is not pertinent.

CONCLUSION

Applicant believes this to be a complete response to the Final Office Action of August 16, 2010. For the reasons presented in this response, the Applicant asserts that the claims as shown in the present Listing of the Claims are each patentable. Applicant's undersigned attorneys respectfully request that the Examiner contact them with feedback on whether the pending claims are now in allowable form.

Respectfully submitted: December 16, 2010

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